

# Morgan Lewis

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October 17, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59; *Call Authentication Trust Anchor*, WC Docket No. 17-97**

**Notice of Ex Parte**

Dear Secretary Dortch:

On October 15 and 16, 2019, Dennis Reinhold, Senior Vice President and General Counsel of Securus Technologies, Inc. ("Securus"), Patricia Cave and the undersigned met separately with staff from the Consumer and Governmental Affairs Bureau, Wireline Competition Policy Division, and legal advisors to the Commissioners and Chairman Pai to discuss the importance of ensuring that inmate calls are protected from inadvertent blocking that could result from efforts to fight illegal and unwanted robocalls. A list of attendees of these meetings is provided as [Attachment 1](#).

Securus provides phone, messaging and video call technologies to approximately 1.2 million inmates across the country and serves thousands of public safety, law enforcement and correction agencies nationwide. In accordance with the policies established by the correctional facilities, inmates typically may place telephone calls only to telephone numbers that are on an "approved list" of numbers and all calls are monitored for investigative purposes. It is not uncommon for inmates to have more than 10 telephone numbers on their approved list. Securus uses biometrics or other identity confirmation techniques prior to inmates being able to place telephone calls. On an average day, Securus originates approximately 2 million calls from correctional facilities and these calls are terminated to over a thousand wireless, wireline, and other carriers throughout the country.

Securus applauds the Commission for taking steps to safeguard consumers from unlawful and unwanted robocalls. However, Securus is concerned that calls placed by inmates to their friends, families, and counsel could be inadvertently swept up in call-blocking programs used by voice service providers and third parties due to the nature of inmate calling services. Specifically, it is common for all inmate calls from a corrections facility to use a single, outbound-only telephone number. Therefore, thousands of calls may originate from the same telephone number during the same period of time especially on high-volume call days like Mother's Day or other holidays. For example, it is not uncommon for Securus to handle over 3,000 simultaneous calls originating from a large Department of Corrections customer and over 20,000 simultaneous calls nationwide. In addition, similar to many robocalls, inmate calls begin with an automated message that the recipient is required to respond to

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before the call is completed. And, inmate calls are oftentimes of very short duration. These factors may make inmate calls appear to be illegitimate robocalls.

Securus' concerns about inmates' calls being blocked inadvertently are well-founded. Prior to 2016, Securus used a single 1-800 telephone number for all calls originated by inmates using its services. After service providers began blocking some of these calls – ostensibly because thousands of calls using the same telephone number simultaneously resembled robocalls – Securus assigned local DIDs (*i.e.*, a telephone number that is local to the calling area in which the facility is located) to county and other local correctional facilities. However, some large Securus customers required Securus to continue using a single 1-800 telephone number to enable inmates' friends and family to contact customer service at Securus. Securus is concerned that additional facilities may revert back to the single 1-800 telephone number model for their inmate calling services.

While Securus is committed to working with its carrier partners to avoid erroneous call blocking, the Commission should adopt protections to ensure that efforts to inhibit robocalls do not result in inadvertent harms to the country's most vulnerable consumers. Protecting the approximately 2.3 million inmates that reside in facilities throughout the United States from inadvertent call blocking is especially important because inmates have no practical ability to seek reversal of an erroneous block, in particular if they and the intended recipient of the call are unaware that their call has been blocked. Beyond knowing that a call has been blocked, inmates are substantially disadvantaged in being able to redress an erroneous block as compared to other callers because they are only permitted to call pre-approved telephone numbers and have no ability to locate the customer service telephone number or access the website of a provider that blocked the call. Moreover, it is highly unlikely that any call to a blocking provider to rectify the block would be successfully completed due to the nature of inmate calls that require an affirmative response from the called party prior to the call being connected. To protect inmates from having their calls inadvertently blocked, Securus proposes the protections described in Attachment 2 and below.

First, the Commission should require that notice to consumers about the consequences of opt-out call blocking programs state that some legitimate calls, including inmate calling service calls, may be blocked through these programs. Instead of deferring to providers to determine what call characteristics warrant blocking, the Commission should also provide clear guidance regarding the contours of "reasonable analytics". It is unclear to Securus how call characteristics factor into the analytics used to detect and block suspected robocalls. But, having experienced its customers' calls being blocked in the past, Securus is concerned that deferring to voice service providers and third party analytics vendors to decide which calls should be blocked without ensuring that the unique nature of inmate calls is taken into account as part the blocking analysis could result in inadvertent blocks. Guidance from the Commission will be an important first line of defense to erroneous blocks, in particular for inmate calls.

Second, a confidential Critical Calls List that includes telephone numbers used for outbound inmate calls would nearly eliminate the potential for inmates' calls to be inadvertently blocked by voice service providers. The Commission, the North American Numbering Council, or another trusted third party could maintain a centralized list and the Commission could adopt reasonable processes and procedures by which numbers could be added or removed to the list.

Third, Securus agrees with other commenters that the Commission should not allow providers to rely solely on the SHAKEN/STIR Framework to justify blocking calls. The SHAKEN/STIR Framework has not been widely deployed by industry and it is unclear when such deployment will occur by all carriers. Although Securus intends to implement the SHAKEN/STIR Framework, Securus and other providers face significant problems doing so at this time and there has been no indication

when these issues (such as the lack of a mechanism for certificate delegation) will be resolved. Moreover, there is insufficient evidence that blocking calls based solely on a lack of SHAKEN/STIR authentication would result in the blocking of only illegitimate or illegal robocalls because the Framework was not designed to determine the legality of calls.

Finally, before adopting a safe harbor for providers to engage in robocall blocking, the Commission should require providers to implement a mechanism by which the calling party, called party, and the inmate calling service provider are each notified of a blocked call and a mechanism by which erroneous blocks of inmate calls can be rectified within hours, not days. As discussed above, inmates will generally be unable to contact a provider to request that their calls be unblocked. Without notice from the blocking provider, the intended recipients of an inmates' call will not know that the call has been blocked. In the case of inmate calls, the inmate calling service provider is in the best position to seek to remedy an erroneous block.

The Commission has consistently recognized that communications between inmates and their friends and families can have a meaningful impact on prisoner rehabilitation and recidivism, and the Commission and industry have taken steps over the years to ensure that inmates have access to reasonably priced telephone services. Securus seeks to avoid a scenario in which well-intentioned efforts to curb the surge of robocalls plaguing American consumers results in negating progress made to reduce inmate calling rates.

Please do not hesitate to contact the undersigned if you have questions.

Sincerely yours,

*/s/ Andrew D. Lipman*

Andrew D. Lipman  
Counsel for Securus Technologies, Inc.

## **Attachment 1**

### **Meeting Attendees**

#### **October 15, 2019**

Mark Stone, Deputy Bureau Chief, Consumer and Governmental Affairs Bureau  
Pamela Arluk, Chief, Competition Policy Division, Wireline Competition Bureau  
Kurt Schroeder, Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau  
Kristi Thornton, Assistant Division Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau (via telephone)  
Karen Schroeder, Attorney Advisor, Consumer Policy Division, Consumer and Governmental Affairs Bureau  
Jerusha Burnett, Attorney Advisor, Consumer Policy Division, Consumer and Governmental Affairs Bureau

#### **October 16, 2019**

Joseph Calascione, Legal Advisor to Commissioner Carr  
Joel Miller, Chief of Staff and Senior Legal Advisor to Commissioner O'Reilly  
Nirali Patel, Legal Advisor to Chairman Pai  
Michael Scurato, Legal Advisor to Commissioner Starks  
Alisa Valentin, Ph.D., Special Advisor to Commissioner Starks  
Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Rosenworcel

**Attachment 2**

**Securus Technologies, Inc. Positions on Efforts to Combat Unlawful Robocalls**

## **Securus Technologies, Inc. Positions on Efforts to Combat Unlawful Robocalls**

### **Background on Securus:**

- Securus provides phone, messaging, and video call technologies to more than 1.2 million inmates across North America, and serves over 3,400 public safety, law enforcement, and correction agencies.
- Securus recognizes the importance of shielding consumers from unlawful and unwanted robocalls, but the FCC must safeguard the ability for inmates to successfully place calls to their friends, families, legal counsel, and other parties.
- An inability for inmates to successfully place outbound calls to friends and family is likely to increase behavioral issues during incarceration thereby jeopardizing the safety and security of inmates and correctional officers alike.
- Inadvertent blocking of inmate calls also could very likely result in increased safety and security issues including less successful assimilation back into society and increased recidivism following incarceration.

### **The FCC should adopt more specific requirements for voice service providers' "Opt-Out" call-blocking programs to avoid inadvertent harms to consumers.**

- I. Without understanding that some legitimate and wanted calls are likely to be inadvertently blocked by carriers' call-blocking programs, consumers will not be able to make a truly "informed" choice about whether to continue participating in the program.
- II. Securus has particular concerns about the impact of opt-out call-blocking programs on the completion of inmate calls:
  - a. Inmate calls share some of the characteristics of robocalls that could result in erroneous blocking:
    - i. It is common for all inmate calls from a particular correctional facility to originate from a single telephone number.
    - ii. When a recipient of an inmate call first answers the call, a response to an automated voice is required before the parties are able to speak to each other.
    - iii. Many inmate calls may be placed within a short time frame from the same location.
  - b. A recipient of an inmate call may be entirely unaware that calls from inmates have been blocked.
- III. The FCC should require voice service providers to provide actual notice to consumers regarding the consequences of participating in call-blocking programs, including the likelihood for some calls to be erroneously blocked. Providers offering opt-out call blocking programs should be required to post a disclosure on their website, provide the FCC with the address of that website, and use a mechanism to ensure that consumers have actually received notice of this disclosure.
- IV. The FCC should seek further public comment regarding "Reasonable Analytics" in use today to ensure that legitimate calls that share characteristics that are similar to unlawful robocalls (such as large numbers of calls originating from a single telephone number in a short time, calls with low call duration, and automated voice calls) are not inadvertently blocked.

**The FCC should seek further comment on establishing a Critical Calls List.**

- I. A Critical Calls List should include inmate calls.
  - a. The FCC has consistently recognized that communications between inmates and their friends and families can have a meaningful impact on prisoner rehabilitation and recidivism.
  - b. Concerns that including calls originating from correctional facilities' numbers on the Critical Calls List will result in abuse from unscrupulous callers should not apply because (1) there are a finite number of correctional facilities across the country and a relatively small set of telephone numbers from which inmate calls originate and (2) outbound inmate calling systems already include robust built-in call-blocking features and are actively monitored for security and other purposes, substantially limiting the potential for abuse.
- II. A confidential list or database of Critical Calls telephone numbers that should not be blocked by voice service providers on a wholesale basis could be maintained by the FCC or an industry-led group.
- III. The FCC could adopt a reasonable process to add numbers to the list to prevent bad actors from manipulating the system (*e.g.*, documentation demonstrating that calls originating from the identified telephone numbers are legitimate calls).

**The SHAKEN/STIR Framework alone should not serve as the basis for call blocking.**

- I. Although Securus intends to implement the SHAKEN/STIR Framework, Securus faces significant problems doing so at this time and there has been no indication when these issues will be resolved.
  - a. To Securus' knowledge, the SHAKEN/STIR Framework currently only permits the owner of an Operating Company Number to sign a call. Until a mechanism for certificate delegation is adopted, voice service providers who get their telephone numbers from wholesale providers will not be able to fully implement the Framework.
  - b. Some providers of originating numbers have suggested they may refuse to sign some calls because Securus does not terminate calls on their networks (which would be impossible for Securus to do, because Securus provides originating calling only in accordance with the requirements imposed by correctional facilities).
- II. The SHAKEN/STIR Framework has not yet been widely deployed, and it is unclear when industry-wide deployment will be completed.
- III. There is insufficient evidence that blocking calls based solely on a lack of SHAKEN/STIR authentication/verification would result in blocking of only illegitimate or illegal robocalls (the Framework was not designed for this task).
- IV. Even proponents of the Framework oppose call blocking solely based on SHAKEN/STIR authentication/verification.

**A mechanism(s) to detect and remedy erroneous blocks is necessary before any safe harbor for voice service providers engaging in call-blocking is established.**

- I. A mechanism to remedy inappropriately blocks is especially important to protect inmates and recipients of their calls because these callers have no control over why calls were blocked and face substantial challenges in remedying erroneous blocks:
  - a. All calls placed by inmates are originated through the inmate calling system.

- b. Inmates will be unable to contact the service provider that blocked the call due to the nature of inmate calling services (*i.e.*, the call begins with an automated message that must be responded to before the call is completed, inmates generally are only permitted to call numbers that have been pre-approved by the facility, etc.).
  - c. Inmates will have a limited practical and financial ability to follow-up on a request to have an erroneous block removed.
- II. The FCC should require notice to the caller *and* intended recipient of a blocked call. In the case of ICS, the FCC should require prompt notice to the ICS provider (*e.g.*, Securus) to enable the ICS provider to investigate and promptly request a remedy for the blocked call.
- III. The FCC should require providers to implement a mechanism for prompt correction (in hours, not days) to erroneous blocks.
- IV. Any voice service provider using the safe harbor should be required to report the number of calls and subscribers impacted by call blocking so that the FCC can study the effects of its call-blocking policies.
- V. The FCC should establish an expedited complaint process to serve as a backstop for circumstances in which the voice service providers' response to an unblock request made by a caller, intended call recipient, or other service provider is inadequate.